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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/812,945	03/27/2001	Hsuan-Yin Lan-Hargest	12938-002001	5280

26171 7590 03/21/2003

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EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 03/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER
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ART UNIT	PAPER
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13

DATE MAILED:

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

The appeal brief filed on December 23, 2002 is defective because the three copies of the brief required under 37 CFR 1.192(a) have not been submitted.

To avoid dismissal of the appeal, appellant must submit the necessary additional copies of the appeal brief within the longest of any of the following TIME PERIODS: (1) ONE MONTH or THIRTY DAYS, whichever is longer, from the mailing of this communication; (2) within the time period for reply to the action from which appeal has been taken; or, (3) within two months from the date of the notice of appeal under 37 CFR 1.191. Extensions of these time periods may be granted under 37 CFR 1.136.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to San-ming Hui whose telephone number is (703) 305-1002. The examiner can normally be reached on Mon 9:00 to 1:00, Tu - Fri from 9:00 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreeni Padmanabhan, PhD., can be reached on (703) 305-1877. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4556 for regular communications and (703) 308-4556 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

San-ming Hui  
March 19, 2003

  
**RUSSELL TRAVERS  
PRIMARY EXAMINER**

7. Marks simply does not provide the requisite guidance to form the basis of the obviousness rejection.

Even if such modifications were to be made, there is no indication that there would have been a reasonable expectation such modifications would successfully yield a compound suitable for use in the claimed method. In fact, Marks teaches that several compound modifications were unsuccessful for purposes of the *in vitro* and *in vivo* studies reviewed in that reference:

Substitution of the hydroxamic acid with a carboxylic acid or amide oxime group results in inactive compounds. Modification of the hydroxamic acid, such as introduction of a methyl group on an adjacent carbon or N-methylation, results in inactive compounds. (Marks at page 1212, second column (emphasis added))

In short, Marks provides neither

- (1) the motivation to modify the compounds disclosed in either Marks or Richon as proposed by the Examiner, nor
- (2) a reasonable expectation that such modified compounds could be used successfully in the claimed method.


Accordingly, Applicants respectfully request reversal of the rejection under 35 U.S.C. § 103(a).

#### CONCLUSION

For these reasons, and the reasons stated in the Appeal Brief, Applicant submits that the final rejection should be reversed. Please apply any charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: 8-18-03



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